

**CITY OF BATTLE CREEK
POLICE AND FIRE RETIREMENT SYSTEM**

POLICY AND PROCEDURE

Re: Correction of Errors Overpayments/Underpayments

Adopted: 8/18/15

WHEREAS, the Board of Trustees of the City of Battle Creek Police and Fire Retirement System is vested with the authority and fiduciary responsibility for the administration, management and operation of the Retirement System, and

WHEREAS, the Board of Trustees owes fiduciary duties to the members and beneficiaries of the Retirement System and acknowledges its fiduciary obligation to ensure that retirees and beneficiaries receive all the benefits to which they are entitled under the plan provisions, no more and no less, and

WHEREAS, the Board of Trustees recognizes that in the event of an overpayment or underpayment of retirement benefits due to an error, the Board of Trustees has a duty to correct the error and as far as is practicable to adjust the payment in such a manner that the actuarial equivalent of the benefit to which the member, retiree, or beneficiary was correctly entitled is paid, and therefore, the Board of Trustees does not have the authority to waive the correction under any circumstances, and

WHEREAS, the Board of Trustees recognizes the term "practicable" simply means "that which is suitable for a particular purpose, proper, or fitting," and

WHEREAS, the Board of Trustees recognizes the term "actuarial equivalent" as being an "amount which is actuarially equal or alike in value" which may include adjustments through the use of lump sum payments, modified payments for a term certain or permanent adjustments over an individual's actuarial life expectancy at the time of retirement, and

WHEREAS, the Board of Trustees has discussed this matter with its Legal Counsel and has determined that it is in the best interest of the Retirement System to establish a payment policy and procedure for the correction of errors, therefore be it

RESOLVED, that upon discovery of an underpayment in benefits, the Board of Trustees shall provide the retiree or beneficiary with notification of the underpayment as well as the following options as established by the Board of Trustees: (a) a retroactive lump sum payment without interest, or (b) if the underpayment is greater than \$5,000, a permanent actuarial adjustment over the life of the retiree or beneficiary consistent with the form of benefit elected at the time of retirement, and be it further

RESOLVED, that in the event the retiree or beneficiary fails to select their underpayment option within thirty (30) days, the Board of Trustees, in its sole discretion, may select an appropriate option and direct payment of benefits accordingly, and be it further

RESOLVED, that upon discovery of an overpayment, the Board of Trustees shall provide the retiree or beneficiary with a notification of the overpayment which explains the nature and amount of the overpayment, as well as the repayment options as established by the Board of Trustees and set forth herein, and be it further

RESOLVED, that the Board of Trustees hereby establishes that the repayment of overpayments of retirement benefits shall be determined by the Board of Trustees in each instance consistent with the following:

- (1) Where the overpayment has occurred via a lump sum payment or increased monthly retirement benefits over a period of time as a result of clerical error through no fault of the retiree or beneficiary, repayment, with no payment of interest, shall occur via: (a) a lump sum payment within ninety (90) days of the date of the Retirement System's notification to the retiree or beneficiary of the overpayment; or (b) adjustment in monthly retirement benefits over a time period not to exceed two (2) years.
- (2) Retirees or beneficiaries who have received an overpayment in an amount greater than \$2,000 as a result of a clerical error through no fault of the retiree or beneficiary, may elect to have all future retirement benefits permanently reduced so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the benefit to which such person was correctly entitled. It is understood that such actuarial adjustment calculation shall include interest at the actuarially assumed rate of return in effect at the time the Board discovers the overpayment, and shall be adjusted over the lifetime of the retiree or beneficiary based upon the form of benefit elected at the time of retirement.
- (3) Where the overpayment has occurred via a lump sum payment or increased monthly retirement benefits over a period of time as a result of the fault of the retiree or beneficiary, repayment with interest at the actuarially assumed rate of return in effect at the time the Board discovers the overpayment, shall occur in the following manner in the sole discretion of the Board of Trustees: (a) lump sum payment within ninety (90) days of the date of the Retirement System's notification to the retiree or beneficiary of the overpayment; or (b) an adjustment in, or suspension of, monthly retirement benefits over a specified period time until full repayment.
- (4) Overpayments made as a result of fraud or intentional misrepresentation shall be prosecuted to the full extent of the law.
- (5) The Board of Trustees, in its sole discretion, reserves the right to amend, modify, supplement, or waive any of the foregoing provisions based upon the circumstances in each instance.

RESOLVED, the retiree or beneficiary shall have thirty (30) days from the date of the notification of overpayment to select one of the Board of Trustees' indicated repayment options, and further

RESOLVED, that failure of the retiree or beneficiary to select a repayment option will result in the overpayment being recouped in such manner as the Board of Trustees, in its sole discretion, may select, and further

RESOLVED, that a copy of this resolution shall be forwarded to applicable retirees, beneficiaries, and other appropriate parties.